

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5102 of 1985

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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CHANDRESHKUMAR D SOMANI & ANR.

Versus

EXECUTIVE ENGINEER, ROAD & BLDG. DIV-I, SURAT

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Appearance:

MR PH PATHAK for Petitioners

MR SB PARMAR for Respondents

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CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 25/02/97

ORAL JUDGEMENT

1. The petitioners, work-charged employees in the office of the respondents, filed this Special Civil Application and prayer has been made that the direction may be given to the respondents declaring the impugned action of the respondents in giving artificial intermittent break on every 30th day during the entire period from the date of their initial appointment till today as illegal, invalid and inoperative in law and

further direction has been prayed for payment of wages for the artificial breaks.

2. From the Civil Application No.4273/96 (decided today) filed by the petitioners, it is admitted case that the services of the petitioners were terminated on 3rd August, 1985. Though this Special Civil Application has been filed by the petitioners before this Court on 17th September, 1985, but this fact has not been disclosed. However, the excuse has been taken by the counsel for the petitioners that it was an oral termination. Be that as it may.

3. In view of the fact that the services of the petitioners have been terminated and that termination is sought to be challenged by the petitioners by way of amendment of this Special Civil Application on the ground of violation of sec.25-F of the Industrial Disputes Act, 1947, I consider it to be appropriate to dispose of this Special Civil Application with the direction that it shall be open to the petitioners to raise an industrial dispute against the termination of their services which has been made in the year 1985. While raising an industrial dispute, it shall be open to the petitioners to raise the dispute which has been raised by them in this Special Civil Application. However, it is expected of the State Government that on application of the petitioners it shall decide the matter of reference of dispute to the Labour Court or to the Tribunal, as the case may be, in accordance with law, within reasonable period, say within three months from the date of receipt of the failure report from the Conciliation Officer. The petitioners should first approach to the Conciliation Officer and the Conciliation Officer is expected to decide the matter expeditiously, say within three months, and in case, the conciliation is not arrived at between the parties, then send the failure report forthwith to the State Government. With these observations, this Special Civil Application stands disposed of. Rule stands disposed of accordingly with no order as to costs.

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